

## REMARKS

This Amendment is submitted in response to the Office Action mailed on April 7, 2004. The Office Action rejects Claims 1-3 and 6-20 under 35 U.S.C. § 112 as well as § 103. In response, independent Claims 1, 9, 14, and 19 have been amended. Applicants respectfully submit that the rejections are either improper or have been overcome in view of the amendments and/or for the following reasons.

Claims 1-3 and 6-20 stand rejected under 35 U.S.C. § 112 as the Patent Office states it is unclear what is meant by the term “semi-rigid.” Applicants respectfully submit that this rejection is not proper.

Of course, when drafting a claim, an Applicant can be his own lexicographer. In this regard, Applicants can specifically define how the terms are being used in an application. If Applicants do not so define the terms, then under the current rules of claim construction, resort is made to the dictionary. The dictionary defines the term “semi-rigid.” In fact, Applicants noted in their previous response that the dictionary defines the term “semi-rigid” as follows: “rigid to some degree or in some parts.” This is how the term is being used in the application. Accordingly, the term is not indefinite and the claims are not properly rejected under 35 U.S.C. § 112. Therefore, Applicants respectfully request that this rejection be withdrawn.

Claims 1, 9, and 13 stand rejected under 35 U.S.C. § 103 as being unpatentable over *Hare* in view of *Lassoff*. Claims 3, 6-8, 10, 14, 15, 17, and 18 stand rejected under 35 U.S.C. § 103 as being unpatentable over *Hare* in view of *Lassoff* and further in view of *Weinthrop*. Claims 2 and 12 are also rejected as being unpatentable under 35 U.S.C. § 103 over *Hare* in view of *Lassoff* and further in view of *Cole*. Claim 11 stands rejected under 35 U.S.C. § 103 as being unpatentable over *Hare* in view of *Lassoff* and further in view of *Mogelonsky*. Claim 16 stands rejected under 35 U.S.C. § 103 as being unpatentable over *Hare* in view of *Lassoff*, *Weinthrop* and further in view of *Mogelonsky*. Lastly, Claims 19 and 20 stand rejected as being unpatentable over *Hare* in view of *Lassoff* and further in view of *Schwartz*.

Applicants previously set forth in detail why these rejections are not proper. In response, the Patent Office has stated, “Applicants arguments concerning the term semi-rigid are

unpersuasive.... Applicants assert that flexible material of *Hare* is the complete opposite of rigid. The Examiner respectfully disagrees.”

Applicants note for the record that Roget's New Millennium Thesaurus, First Edition, Copyright 2004 notes that rigid is as an antonym for “flexible.”. Thus, the Examiner's basis for refuting Applicants' argument is incorrect as a matter of fact. A flexible material is the exact opposite of rigid.

Furthermore, the device of *Hare* is a clear folder or sheet. It is not designed to have any rigidity to any degree, in any parts. In fact, it is designed to function as a folder of clear protective material to protect artwork that can be imaged onto a T-shirt. This has nothing to do and no relationship to Applicants' claimed invention, a dry erase board.

The Patent Office's reference to the term “preferably flexible” in *Hare*, and the fact that many different types of folders are provided in the art is inapposite. *Hare* discloses a flexible sheet of plastic. Indeed, all one needs to do is view Figure 1 of *Hare* to see that the sheet can be easily bent or manipulated. In fact, Figure 1 illustrates as the sheet is moved, it does not even have to be bent. Rather, the entire sheet is so flexible that it adapts to the contour created by the mere motion of grasping and moving an end of the sheet. This is exactly the opposite of Applicants' claimed invention wherein the ends have such rigidity so that they cannot revert back to a flat state. See page 5, lines 1-8. *Hare* is clearly not semi-rigid as it does not have any rigidity to any degree or in any parts.

Moreover, in order to eliminate any question of the patentability of the claimed invention, Applicants have amended each of the independent claims to require two bent ends capable of removing and securing a portion of a sheet of paper. Clearly, this structure is taught away from by *Hare* if anything. Moreover, Applicants' claimed methods of Claims 9-13 and 19-20 are not even arguably hinted at by the art in view of the amendments. Accordingly, Applicants request that the 35 U.S.C. § 103 rejection be withdrawn.

Therefore, Applicants respectfully request reconsideration of their patent application and earnestly solicit an early allowance of same.

Respectfully submitted,

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BY \_\_\_\_\_

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